

### **REMARKS**

Claims 1, 4-8, 11-14, 16 and 17 are pending. The Examiner's reconsideration of the rejection is respectfully requested in view of the amendments and remarks.

In this Amendment, Applicant has amended Claims 1, 4-6, 8, and 11-13 and canceled Claims 2, 3, 9, and 10. Applicant is not conceding that the subject matter encompassed by the claims prior to this Amendment is not patentable over the art cited by the Examiner. Claims 1, 4-6, 8, and 11-13 were amended and Claims 2, 3, 9, and 10 were canceled in this Amendment solely to facilitate expeditious prosecution. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the claims as presented prior to this Amendment and additional claims in one or more continuing applications.

Claims 1-5, 8-12, 16 and 17 have been rejected under 35 U.S.C. 102(e) as being anticipated by Hertz et al. (US Patent App. No. 2001/0014868), published 8/16/01 and filed 7/22/98. The Examiner stated essentially that Hertz teaches all the limitations of Claims 1-5 and 8-12.

Claims 1 and 8 claim, "selecting values for said parameters within said allowable range, wherein said values for said parameters are selected within said allowable range so as to reduce agent manipulation across said plurality of winning agents upon determining each agent's bidding strategy as a function of said parameters."

Hertz teaches using offer demand summaries to estimate shoppers' interest (see page 16, second column). Hertz does not teach "selecting values for said parameters within said allowable

range, wherein said values for said parameters are selected within said allowable range so as to reduce agent manipulation across said plurality of winning agents upon determining each agent's bidding strategy as a function of said parameters" as claimed in Claims 1 and 8. Applicant's note Claims 3 and 10, which have been incorporated into Claims 1 and 8, while being specifically called out, are not discussed in the rejection - the rejection fails to address the limitations of Claims 3 and 10. Therefore, the rejection fails to make a prima facie case of anticipation with respect to Claims 3 and 10. Further, Hertz relates to a system for the automatic determination of which products a shopper, that is a buyer, would be most likely to buy (see paragraphs [0002] and [0024]). Hertz is concerned with what the shopper is likely to buy. Hertz does not teach determining a shopper's strategy, much less reducing a shopper's manipulation, essentially as claimed in Claims 1 and 8. Hertz is concerned only with likely sales from the point of view of a buyer. Nowhere does Hertz teach or suggest a discount to a seller as a winning agent, much less a discount that takes into account seller manipulation.

Further, Applicants note that the Response to Arguments does not address the previous amendment - that is, Hertz does not teach determining a discount for a shopper that has committed to a purchase, e.g., in a cleared exchange, much less, computing a Vickrey discount to said plurality of winning agents as claimed in Claims 1 and 8.

For at least the foregoing reasons, Hertz fails to teach all the limitations of Claims 1 or 8.

Claims 4, 5 and 16 depend from Claim 1. Claims 11, 12 and 17 depend from Claim 8. The dependent claims are believed to be allowable for at least the reasons given for Claims 1 and 8. Claims 2, 3, 9, and 10 have been canceled. Reconsideration of the rejection is respectfully requested.

Claims 6, 7, and 13-14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Hertz et al. (US Patent App. No. 2001/0014868). The Examiner stated essentially that Hertz teaches or suggests all the limitations of Claims 6, 7, and 13-15.

Claims 6 and 7 depend from Claim 1. Claims 13 and 14 depend from Claim 8. The dependent claims are believed to be allowable for at least the reasons given for Claims 1 and 8.

The following request is respectfully reiterated as the traverse of Official Notice has not been addressed in the Office Action:

Applicants note that Office Notice has been taken that the notations of Claim 7 are well-known mathematical notations. Applicants respectfully disagree that the notations of Claim 7 are well-known mathematical notations; for example, the notations of Claim 7 include variables attributed to a Vickrey discount - no known use of a Lagrangian optimization includes a Vickrey discount. If the Examiner is relying on personal knowledge to support the finding of what is known in the art, the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. Such an affidavit is respectfully requested.

Reconsideration of the rejection is respectfully requested.

For the forgoing reasons, the present application, including Claims 1, 4-8, 11-14, 16 and 17, is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully urged.

Respectfully submitted,

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